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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,431	09/05/2003	Richard Charles Flaherty	NC073-US1/5487-148	7577

7590 12/13/2004
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EXAMINER

NGHIEM, MICHAEL P

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/656,431	Applicant(s) FLAHERTY, RICHARD CHARLES	
	Examiner Michael P Nghiem	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,11 and 12 is/are rejected.
- 7) ☒ Claim(s) 3,5-10 and 13-15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9-5-03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the detection element (e.g. claim 13) and the comparator (claim 14) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because reference number "140" (Figs. 2a, 2b) does not point to the "light transmission window". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 3 and 8-10 are objected to because of the following informalities:
- claim 3, is the relay circuit related to the switching device (claim 1)?
 - claim 8, after "mounting" (line 2), should delete "with".

- claim 9, after "comprises" (line 4), should replace ";" with -- : --.
- claim 10, is the relay related to the switching device (claim 1)?

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Okita et al. (US 4,774,613).

Regarding claims 1, 11, and 12, Okita et al. discloses a method and apparatus (Figs. 1a, 1b) for calibrating a photocontrol device (22) having at least one flexible mounting leg (22e) mounting the photosensor (22a) to a circuit board (22c) and being electrically coupled to activate a switching device (15b) (Fig. 3), the method comprising:

- positioning the photocontrol device (22) proximate a light source (column 9, lines 23-26);

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- positioning an aperture (22r) between the photosensor and the light source (column 9, lines 23-26, Fig. 1b);

- adjusting an angle between the at least one flexible mounting leg and the circuit board (when 22k presses against 22e, column 10, lines 13-15, it creates an angle with respect to 22c by bending 22e, column 10, lines 35-37) to calibrate a sensitivity of the photocontrol device to light from the light source passing through the aperture (column 10, lines 25-33).

Regarding claim 2, Okita et al. discloses that adjusting an angle comprises bending the at least one flexible mounting leg (column 10, lines 35-38).

Regarding claim 4, Okita et al. discloses that adjusting an angle comprises adjusting a magnitude of misalignment between the photosensor and the aperture to calibrate the sensitivity of the photocontrol device (column 10, lines 25-33).

Regarding claim 12, Okita et al. further discloses a cover (cover of 22a) having a light transmissive window (Figs. 1a, 1b) therein and wherein the cover is positioned over the upper surface of the circuit board (Fig. 1a) with the light transmissive window positioned adjacent the photosensor (Figs. 1a, 1b).

Allowable Subject Matter

5. Claims 3, 5-10, and 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons For Allowance

6. The combination or method as claimed wherein the at least one flexible mounting leg comprises a first and second wire lead coupling the photosensor to a relay circuit of the photocontrol device (claim 3) or adjusting a magnitude of misalignment comprises increasing the magnitude of misalignment to decrease the sensitivity of the photocontrol device (claim 5) or adjusting a magnitude of misalignment comprises bending the at least one flexible mounting leg to increase an angle between the photosensor and the circuit board facing the aperture to reduce the sensitivity of the photocontrol device or a detection circuit coupled to the photosensor by the at least one flexible mounting leg and wherein the detection circuit electrically couples the photosensor to a detection element of the detection circuit without a calibration resistor therebetween (claim 13) or the photosensor is misaligned toward an upper surface of the cover and away from the circuit board and wherein the cover is configured to present a shadowed region to the photosensor when the photocontrol device is

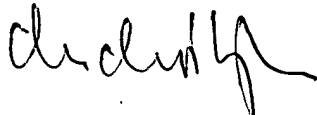
positioned in sunlight is not disclosed, suggested, or made obvious by the prior art of record.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P Nghiem whose telephone number is (571) 272-2277. The examiner can normally be reached on M-H.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**MICHAEL NGHIEM
PRIMARY EXAMINER**

Michael Nghiem

December 9, 2004